DETAILED ACTION

This is a Final action for application number 10/500,272 in response to a non-final application filed on 08/06/2009, the original application filed on 06/25/2004. Claims 4 – 8, 41 - 45, 80, and 81 are currently pending and have been considered below. Claims 1 – 3, 9 – 40, and 46 – 79 are cancelled. Claims 4, 41, 80, and 81 are independent claims.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 06/24/2009, 07/28/2009, were considered by the examiner.

Response to Arguments

Applicant's arguments with respect to claims 4 – 8, 41 - 45, 80, and 81 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 4, 41 and 80 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

- As per claims 4 and 80, applicant has claimed an information distribution system in the preamble to this claim; wherein the applicant is claiming a system claim with means for, which is software. Therefore, claim 2 is directed to non-statutory subject matter.

- As per claims 4, 41 and 80 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claims 4, 41, and 80 recite the mere manipulation of data or an abstract idea, or merely solves a mathematical problem without a limitation to a practical application. A practical application exists if the result of the claimed invention is "useful, concrete and tangible" (with the emphasis on "result") (Guidelines, section IV.C.2.b). A "useful" result is one that satisfies the utility requirement of section 101, a "concrete" result is one that is "repeatable" or "predictable", and a "tangible" result is one that is "real", or has "real-world" value, as opposed to being "abstract" (Guidelines, section IV.C.2.b)). Claims 1-41 merely manipulates data

without ever producing a useful, concrete and tangible result because the last step of claim 1 is to calculate a corrected value taking into account the corrected raw datum. It is the result that is the focus. If the result has a real world practical application/use, then the test has been satisfied. The claim need not include the uses to which the result is ultimately put, just the result itself. Applicant is advised to provide a written explanation of how and why the claimed invention (either as currently recited or as amended) produces a useful, concrete and tangible result

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 4 and 80, the word "means" is preceded by the word(s) ", handicap application and random extraction" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 – 8, 41 - 45, 80, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kida et al. (US 2002/0013729), in view of Inoue et al. (US 2003/0208560) and further in view of Kindo et al. (US 2002/0065977)

Regarding claim 4, 41, 80, and 81, Kida et al. teaches an information distribution system comprising at least a video content storage means which stores video contents, an advertisement storage means which stores advertisement materials, **[user schedule information storage means for storing user schedule information; advertisement data storage means for storing advertisements to be presented in conjunction with schedule information when a user consults his schedule information, (Kida et al., Paragraph 18)],**

and a video content distribution server which selectively reads requested video contents from the video content storage means, and distributes, via a network, the video content to a viewer terminal that has made a request, and the system further comprises, **[this invention is a server to which user terminals are connected via a network,**

this server comprising: user schedule information storage means for storing user schedule information that has been input from the user terminals, (Kida et al., Paragraph 25)],

a viewer database, which stores at least information about a minimum unit category, to which each viewer belongs, and information about the viewing history, for each viewer, **[The aforementioned interest estimation means can include means for consulting a knowledge database in which has been stored information relating to what sort of advertising service a certain schedule item, (Kida et al., Paragraph 20)],**

an advertisement distribution condition database, which stores at least, for each advertisement, information about the desired number of reproductions for the advertisement during a planned time period and information about specifications of increasing or decreasing with respect to each minimum unit category and time period, **[under the following four-fold classification: An advertiser registers an advertisement. A user registers user information. A user manages his personal schedule. Sending an advertisement to a user's scheduler, on the basis of user preferences, (Kida et al., Paragraph 85)],**

a viewer database, which stores at least information about a category to which each viewer belongs, and information about the viewing history for each viewer, **[Fig. 1, Ref # 3, wherein the user's client machine which is the viewer who has a database 101],**

a means for predicting the number of distribution demands, which predicts the number of demanded distributions within the time period for each minimum unit category, based on the information on the viewing history of all viewers, **[If the number of records retrieved in step S60903 is less than or equal to the maximum number of advertisements, the flow advances to step S60907, wherein the remaining number of advertisement is the difference between the man number of advertisement and the number of advertisement as shown in Fig. 25, (Kida et al., Paragraph 353)]**,

a means for calculating the number of planned distributions, which calculates the number of planned distributions of each advertisement for each minimum unit category, so as to balance the number of desired advertisements of each advertisement for each minimum unit category and the number of requested distributions for each minimum unit category, **[estimating a user's interests calculates more detailed user interests, and is not restricted to constant interests, but instead calculates dynamically changing interests--i.e., users' current interests, (Kida et al., Paragraph 235)]**,

a means for generating a random extraction advertising list, which generates an advertising list for each minimum unit category, wherein the extraction probability for each advertisement in the case of random extraction is the ratio of the planned number of distributions of each advertisement for each minimum unit category to the accumulated total for each minimum unit category of the planned number of distributions of all the advertisements, **[Category (D104) is the field where the advertiser selects the type of advertisement, (Kida et al., Paragraph 105)]**,

a means for handicap application, which, when performing random extractions, applies a handicap, based on the information about specification of increasing or decreasing each time to the remaining number of distributions of each advertisement comprised by each advertising list, so that the mean extraction probability is maintained over the time period, while causing a deviation in the extraction probability distribution between each advertising list at each random extraction, **[adding a check box in front of each category, and putting a check mark in the check boxes of those categories that have been registered in the field for category of advertisement of interest in the record found in step S205, (Kida et al., Paragraph 153)],**

a means for random extraction, which performs selection and random extraction with respect to the advertising list corresponding to a minimum unit category to which the distribution demand terminal belongs, based on the remaining number of distributions of each advertisement to which a handicap has been applied, so as to select one advertisement, **[searching for and extracting the advertisement data that corresponds with a user's schedule information, and establishing an association between schedule information and advertisements, (Kida et al., Paragraph 21)],**

a means for generating a distribution list, which generates a distribution list in which the extraction sequence is used as the advertisement distribution sequence, **[Category (D104) is the field where the advertiser selects the type of advertisement, (Kida et al., Paragraph 105)],**

by repeating the random extraction of advertisements by the means for random extraction until the demanded advertisement slots are filled, **[searching for and**

extracting the advertisement data that corresponds with a user's schedule information, and establishing an association between schedule information and advertisements, (Kida et al., Paragraph 21)],

while updating the advertising list so that the extraction probabilities for the next time reflect the results of the extraction, **[Moreover, a user can incorporate advertisements into his own schedule information, and advertisement can be on the basis of estimating the user's interests from these incorporated advertisements. As a result, advertisements that the user would like to get can be distributed on subsequent occasions, and hence more effective advertising can be expected, (Kida et al., Paragraph 428)],**

a means for managing a distribution list, which stores the distribution list and outputs the list to an advertisement material distribution server, **[If the number of records retrieved in step S60903 is less than or equal to the maximum number of advertisements, the flow advances to step S60907, wherein the remaining number of advertisement is the difference between the man number of advertisement and the number of advertisement as shown in Fig. 25, (Kida et al., Paragraph 353)],**

and an advertisement material distribution server which, based on the distribution list, sequentially and selectively reads a corresponding advertisement material from the advertisement material storage means, and when the video content is distributed via the information network to a distribution demand terminal which has made a request, performs a linked distribution of the advertisement material, **[An advertisement presentation system according to the present invention can be implemented as a**

system comprising a server and user terminals connected via a network, (Kida et al., Paragraph 25)],

Kida fails to explicitly teach a random extraction based on the remaining number of advertisements,

Inoue et al. teaches the server computer 2 subtracts the obtained sum total of the issued receipts with advertisement from the "Maximum Number of Receipts to be Issued with Advertisement" in a corresponding record of the advertisement master file M1, and sets a result of the subtracts in the "Remaining Number of Receipts to be Issued with Advertisement" (Step J12) as shown in Fig. 22, **(Inoue et al., Paragraph 200)**, in order to provide an advertisement distribution system which selects only useful advertisements corresponding to store attributes of a target store and transmits the selected advertisements to the store, **(Inoue et al., Paragraph 8)**,

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Kida et al. by randomly extracting advertisements based on the remaining number of advertisements wherein Inoue et al. teaches the server computer 2 subtracts the obtained sum total of the issued receipts with advertisement from the "Maximum Number of Receipts to be Issued with Advertisement" in a corresponding record of the advertisement master file M1, and sets a result of the subtracts in the "Remaining Number of Receipts to be Issued with Advertisement" (Step J12) as shown in Fig. 22, **(Inoue et al., Paragraph 200)**, in order to provide an advertisement distribution system which selects only useful advertisements

corresponding to store attributes of a target store and transmits the selected advertisements to the store, **(Inoue et al., Paragraph 8),**

The modified Kida et al. fails to explicitly teach a applying a handicap based on the information about specification of increasing or decreasing,

Kindo et al. teaches that it is possible to automatically decrease or increase the rate of the information distributed from a provider, **(Kindo et al., Paragraph 82),** in order to distribute advertisements to clients having preferences, **(Kindo et al., Paragraph 5)**.

Regarding claims 4, 41, 80, and 81, an information distribution system that, in response to demand from each distribution demand terminal, reads out various information from a means of storing an information material and distributes the read-out information material to the distribution demand terminals via a network, where the system comprises, a means for managing a remaining number of distributions, **[If the number of records retrieved in step S60903 is less than or equal to the maximum number of advertisements, the flow advances to step S60907, wherein the remaining number of advertisement is the difference between the man number of advertisement and the number of advertisement as shown in Fig. 25, (Kida et al., Paragraph 353)],**

where the means stores the planned number of distributions during a period of time for each information material, **[Advertisement scheduling means 114 takes note**

of the first record in the user, wherein the advertisement list is stored as shown in Fig. 25, (Kida et al., Paragraph 347)],

the actual number of distributions already made for each information material, **[Advertisement scheduling means 114 takes note of the first day of the valid period given in the third column (T803) of the noted user advertisement, (Kida et al., Paragraph 349)],**

and the remaining number of distributions for each category of each information material, which is the difference between these two numbers of distributions, **[If the number of records retrieved in step S60903 is less than or equal to the maximum number of advertisements, the flow advances to step S60907 to register noted user advertisement as shown in Fig. 25. (Kida et al., Paragraph 353)],**

a means for generating an advertising list for extraction, where the means generates an advertising list for extraction of each category, **[Advertisement scheduling means 114 registers the noted user advertisement in user schedule database 108 as shown in Fig. 21, (Kida et al., Paragraph 359)],**

in which the extraction probability for each information material in the case of random extraction is the ratio of the remaining number of distributions for each information material to the accumulated total of the remaining number of distributions for each information material at that point in time, **[searching for and extracting the advertisement data that corresponds with a user's schedule information, and establishing an association between schedule information and advertisements, (Kida et al., Paragraph 21)],**

a means for category judgment, where the means judges the category to which the distribution demand terminal belongs at the time a distribution request is received from a distribution demand terminal, **[Keywords (D103) is the field where the advertiser uses keywords to indicate the content of the advertisement. Keywords can be entered with commas as separators. In the example of FIG. 4, the keywords "comics, weekly magazines" are being input, (Kida et al., Paragraph 104)],**

a means for selecting an advertising list, where the means selects the advertising list corresponding to the judged category, **[Category (D104) is the field where the advertiser selects the type of advertisement, (Kida et al., Paragraph 105)],**

a means for handicap application, which, when performing random extractions, applies a handicap each time to the remaining number of distributions of each information material comprised in the advertising list, so that the mean extraction probability is maintained over the time period, while causing deviation in the extraction probability distribution between each advertising list at each random extraction, **[adding a check box in front of each category, and putting a check mark in the check boxes of those categories that have been registered in the field for category of advertisement of interest in the record found in step S205, (Kida et al., Paragraph 153)],**

a means for random extraction, which performs random extraction with respect to the selected advertising list based on the remaining number of distributions of each information material to which a handicap has been applied, so as to extract one

information material, **[searching for and extracting the advertisement data that corresponds with a user's schedule information, and establishing an association between schedule information and advertisements, (Kida et al., Paragraph 21)],**

and wherein an extracted information material is distributed via the information network from the information distribution server to the distribution demand terminal that made the request, **[An advertisement presentation system according to the present invention can be implemented as a system comprising a server and user terminals connected via a network, (Kida et al., Paragraph 25)],**

an addition is made to the actual number of distributions already made, **["maximum number of advertisements" is the maximum number of advertisements that can be displayed in one day, and is a predetermined fixed value, (Kida et al., Paragraph 353)],**

a subtraction is made from the remaining number of distributions based on the results of the distribution, **["maximum number of advertisements" is the maximum number of advertisements that can be displayed in one day, and is a predetermined fixed value, (Kida et al., Paragraph 353)],**

and the advertising list is updated so that the distribution results are reflected in the extraction probabilities for the next time, **[Moreover, a user can incorporate advertisements into his own schedule information, and advertisement can be on the basis of estimating the user's interests from these incorporated advertisements. As a result, advertisements that the user would like to get can be**

distributed on subsequent occasions, and hence more effective advertising can be expected, (Kida et al., Paragraph 428)],

Kida fails to explicitly teach a random extraction based on the remaining number of advertisements,

Inoue et al. teaches the server computer 2 subtracts the obtained sum total of the issued receipts with advertisement from the "Maximum Number of Receipts to be Issued with Advertisement" in a corresponding record of the advertisement master file M1, and sets a result of the subtracts in the "Remaining Number of Receipts to be Issued with Advertisement" (Step J12) as shown in Fig. 22, **(Inoue et al., Paragraph 200)**, in order to provide an advertisement distribution system which selects only useful advertisements corresponding to store attributes of a target store and transmits the selected advertisements to the store, **(Inoue et al., Paragraph 8)**,

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Kida et al. by randomly extracting advertisements based on the remaining number of advertisements wherein Inoue et al. teaches the server computer 2 subtracts the obtained sum total of the issued receipts with advertisement from the "Maximum Number of Receipts to be Issued with Advertisement" in a corresponding record of the advertisement master file M1, and sets a result of the subtracts in the "Remaining Number of Receipts to be Issued with Advertisement" (Step J12) as shown in Fig. 22, **(Inoue et al., Paragraph 200)**, in order to provide an advertisement distribution system which selects only useful advertisements

corresponding to store attributes of a target store and transmits the selected advertisements to the store, **(Inoue et al., Paragraph 8).**

Regarding claims 5 and 42, the information distribution system of claim 4, wherein the means of generating a distribution list generates a distribution list in which the extraction sequence is used as the advertisement distribution sequence, **[Category (D104) is the field where the advertiser selects the type of advertisement, (Kida et al., Paragraph 105)],**

by repeating the random extraction of advertisements by the means for random extraction until the demanded advertisement slots are filled, **[searching for and extracting the advertisement data that corresponds with a user's schedule information, and establishing an association between schedule information and advertisements, (Kida et al., Paragraph 21)],**

while updating each number of planed distributions of the advertising list by reducing the number of planned distributions so that there is no return to the advertising list for the extracted advertisement, **[Moreover, a user can incorporate advertisements into his own schedule information, and advertisement can be on the basis of estimating the user's interests from these incorporated advertisements. As a result, advertisements that the user would like to get can be distributed on subsequent occasions, and hence more effective advertising can be expected, (Kida et al., Paragraph 428)].**

Regarding claims 6 and 43, the information distribution system of claim 4, wherein the means for generating a distribution list generates a distribution list in which the extraction sequence is used as the advertisement distribution sequence, **[Category (D104) is the field where the advertiser selects the type of advertisement, (Kida et al., Paragraph 105)],**

by repeating the random extraction of advertisements by the means for random extraction until the demanded advertisement slots are filled, **[searching for and extracting the advertisement data that corresponds with a user's schedule information, and establishing an association between schedule information and advertisements, (Kida et al., Paragraph 21)],**

while multiplying the extraction probability of each advertisement by a corresponding correction coefficient and updating the extraction probability of each advertisement in the advertising list so that the extraction probability for the next time reflects the extraction results, **[when the advertisement is subsequently displayed, the copied advertisement is displayed in user schedule region D302 of schedule input/output means 107, and the user can refer to it at any time, (Kida et al., Paragraph 420)].**

Regarding claims 7 and 44, the information distribution system of claim 4 any wherein the advertisement distribution condition database further stores a minimum unit category classification for each advertisement, [**under the following four-fold classification: An advertiser registers an advertisement. A user registers user**

information. A user manages his personal schedule. Sending an advertisement to a user's scheduler, on the basis of user preferences, (Kida et al., Paragraph 85)],

and the system further comprises a means for minimum unit category classification which performs a detailed division, into minimum categories, of the categories for all the advertisements desired to be distributed during the time period, **[estimating a user's interests calculates more detailed user interests, and is not restricted to constant interests, but instead calculates dynamically changing interests--i.e., users' current interests, (Kida et al., Paragraph 235)],**

assigning the increase or decrease specifications stored in the advertisement distribution condition database to the corresponding minimum categories, and then storing the specifications again, **[When information relating to an event has been displayed, the value in the seventh column (T507) is increased by one, (Kida et al., Paragraph 208)].**

Regarding claims 8 and 45, the information distribution system of claim 4 wherein the means for calculating the number of planned distributions, in order to increase or decrease the initially allocated number of reproductions for the advertisement for the specified category for each advertisement in accordance with the target specification, **When information relating to an event has been displayed, the value in the seventh column (T507) is increased by one, (Kida et al., Paragraph 208)],**

performs a uniform flexible adjustment between the initially allocated number and the number of reproductions for the advertisement for categories without target

specification for the advertisement, **[If the number of records retrieved in step S60903 is less than or equal to the maximum number of advertisements, the flow advances to step S60907 as shown in Fig. 25, (Kida et al., Paragraph 353)]**,

and uses each of the number of reproductions for the advertisement to which the increase or decrease adjustment has made as the planned number of distributions for minimum unit each category, **[The seventh column (T507) gives the number of times that information relating to that record has been displayed on schedule input/output means 107. The initial value of this field is zero as shown in Fig. 11, (Kida et al., Paragraph 190)]**,

so that the overall number of reproductions for the advertisement comprised in each minimum unit category agrees with the number of distribution demands for each minimum unit category, **[FIG. 12 shows, as an example, the schedule data set obtained by retrieving, from the user schedule database example given in FIG. 11, schedule data having "002" as the user identification number, (Kida et al., Paragraph 191)]**,

while maintaining the ratio of the number of reproductions for each advertisement for each minimum unit category to the overall number of planned reproductions for advertisements comprised in each minimum unit category after the flexible adjustment, **[If the number of records retrieved in step S60903 is less than or equal to the maximum number of advertisements, the flow advances to step S60907, (Kida et al., Paragraph 353)]**.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Shaq Taha** whose telephone number is 571-270-1921. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Pwu** can be reached on 571-272-6798.

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/S. T./

Examiner, Art Unit 2446

/Jeffrey Pwu/

Supervisory Patent Examiner, Art Unit 2446